

26. SEPARATIONS (GENERAL)

- a. INTRODUCTION. Employees with staff status may separate from the Agency under the provisions of [] or be separated by the Agency under the provisions of [] The termination of employment of non-staff employees shall be governed by the terms of their contracts. The procedures for exit processing are given

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[] Exit Processing for Separation or Extended Leave.

- b. AUTHORITY. Under the law, Agency employees do not have tenure.

Key authorities are:

- (1) The Director of Central Intelligence is empowered to terminate the employment of any Agency employee when he determines that such action is necessary or advisable in the interests of the United States. Termination action is accomplished under the authority of section 102(c) of the National Security Act of 1947 quoted below:

"Notwithstanding the provisions of Section 6 of the Act of August 24, 1912 (37 Stat. 555), or the provisions of any other law, the Director of Central Intelligence may, in his discretion, terminate the employment of any officer or employee of the Agency whenever he shall deem such termination necessary or advisable in the interests of the United States, but such termination shall not affect the right of such officer or employee to seek or accept employment in any other department or agency of the Government if declared eligible for such employment by the United States Civil Service Commission."

(2) The National Security Act of 1947, as amended, specifically charges the Director of Central Intelligence with the protection of intelligence sources and methods. To this end, Section 6 of the Central Intelligence Agency Act of 1949, as amended, provides that the Agency shall be exempted from the provisions of any law which require the publication or disclosure of names, official titles, salaries, or numbers of personnel employed by the Agency. Inasmuch as normal government procedures with respect to termination of employees declared surplus require such disclosures, the Director of Central Intelligence has determined that the termination of such employees will be effected pursuant to the authority cited in b(1) preceding. No employee declared surplus shall be entitled to consideration under procedures set forth in any other law or regulation, including the Veteran's Preference Act of 1944 (5 U.S.C. 851), as amended, or the United States Civil Service Commission regulations promulgated thereunder. Such termination shall not affect the right of the employee to seek or accept employment in any other department or agency of the Government if declared eligible for such employment by the United States Civil Service Commission.

c. DEATH. In the event of the death of an employee, supervisors shall report the death immediately after learning of it to the Office of Personnel. The Office of Personnel shall report the death to the

Director of Central Intelligence, assist the survivors, and arrange for the prompt settlement of all entitlements pertaining to Agency employment.

27. SEPARATION BY THE AGENCY. As appropriate under statute, an employee may be separated by action of the Director of Central Intelligence. An employee is entitled to retirement benefits, if otherwise qualified, unless guilty of offenses specified by statute. An employee not entitled to retirement benefits is entitled to separation compensation, under the provisions unless separated for reasons attributable to misconduct, delinquency, or inefficiency.

- a. SEPARATION DURING TRIAL PERIOD. Heads of Career Services are responsible for identifying employees under their jurisdiction who do not successfully complete the first year trial period. The purpose of the trial period is to permit assessment of the employee to determine that continued employment is in the best interests of both the employee and the Agency. The Head of Career Service, or a designated representative, will notify the Director of Personnel before the close of the first-year trial period if continuation of the probationer's employment is not recommended. The Director of Personnel shall review the case, and, if concurring with non-continuation, shall terminate employment, notifying the employee of the reasons for separation and the effective date of the action.
- b. TERMINATION OF CONTRACT. The conditions governing termination by either party prior to the termination of the contract are governed by the terms of the contract.
- c. TERMINATION FOR FAILURE TO MEET THE WORK AND EFFICIENCY REQUIREMENTS OF THE AGENCY. An employee who fails to meet the work and efficiency requirements of the Career Service or fails to perform adequately

the duties of the assigned position should be considered for administrative action which may, under the procedures of the Career Service, include separation from the Career Service and, possibly, the Agency.

- d. TERMINATION FOR FAILURE TO MEET SECURITY AND MEDICAL STANDARDS. The Director of Security and the Director of Medical Services will make appropriate recommendations to the Director of Personnel when an employee does not meet Agency security or medical standards.
- e. TERMINATION FOR FAILURE TO MEET STANDARDS OF CONDUCT. The Agency standards of employee conduct are prescribed in Heads of Career Services will ensure that appropriate officials take or initiate corrective or disciplinary action as necessary. If warranted, Heads of Career Services will forward a recommendation for separation to the Director of Personnel if an employee fails to meet Agency standards of conduct.
- f. TERMINATION FOR ABANDONMENT OF POSITION. An employee who abandons a position may be separated without following the usual procedures for involuntary separation. After the employee's failure to report for duty or to return from leave or from furlough of 30 days or less, an effort should be made to determine the employee's intentions. If this cannot be done within 10 days, the employee may be separated for abandonment of position. The separation should be made effective the last day of active duty or of approved leave, whichever is later. Notice of separation should be mailed to the employee's last known address. If it should be evidenced that the abandonment was not the fault of the employee, the employee shall be reinstated and back pay restored.

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- g. DETERMINATION OF LEGAL INCOMPETENCE. An employee who is declared mentally incompetent by court action and who is not eligible for disability retirement shall be separated by the action, "Separation (Legal Incompetence)."
- h. SEPARATION OF EXCESS PERSONNEL. Should an employee be found excess to the needs of the component and request placement, an effort shall be made first by the Career Service and then by the Office of Personnel to find suitable employment elsewhere in the Agency. Should this fail, the employee may be found excess to the needs of the Agency and separated. The grounds for a finding of excess are: a finding that the component is overstrength overall or in a particular grade or functional element; a determination that there is no longer a requirement for the particular skills or qualifications possessed by the employee; or a reduction (or elimination) of the functions of the component producing a reduction in staff.
- i. LOW RANKING IN TWO CONSECUTIVE YEARS. It is the policy of the Agency to improve the overall level of employee performance by application of comparative ranking to identify those employees whose performance and potential are low in comparison with those of other employees of the same grade and occupational category. It is the responsibility of each Career Service to identify those who rank in the bottom three percent of its members. Such low-ranked personnel are to be notified in accordance with procedures of the Career Service, though the head of the Career Service may remove individuals from the notification list if there are extenuating circumstances. They are to be counseled so that they have an opportunity to improve performance. If they are again found ranked in the bottom three percent in a consecutive year,

being ranked in the same grade and function, they must be notified again and, as appropriate, administrative action taken. Such action may include reassignment, downgrading, or separation. Separation is appropriate when there is evidence of problems of performance, attitude, or willingness to fulfill assigned responsibilities, though the most significant cases should be identified under subparagraph c above. After review and determination that separation is warranted under this paragraph the Head of the Career Service will review the case with the Director of Personnel before initiating separation procedures.

- j. OTHER TERMINATION IN THE INTERESTS OF THE AGENCY. In addition to a. through i. above, employees may be terminated upon a finding by the Director of Central Intelligence that such termination is necessary and advisable in the interest of the Agency or for such other reasons as the Director may find will advance the efficiency of the Agency.

k. RESPONSIBILITIES

- (1) HEADS OF CAREER SERVICES. Heads of the five Career Services are responsible for identifying employees under their jurisdictions who should be considered for separation. They or their designated representatives will review each case with the Director of Personnel or his designated representative and, when deemed appropriate, recommend to the Director of Personnel termination of the individual's employment.

- (2) DIRECTOR OF SECURITY. When warranted by the information available to him, the Director of Security, after notifying the appropriate Head of Career Service, will recommend to the Director of Personnel the termination of the employment of an Agency employee and advise the Director of Personnel of the security factors bearing on the recommended separation. When the Director of Security considers an individual case to be so sensitive that disclosure should initially be made only to the Director of Central Intelligence for his determination of the action to be taken, such procedure will be followed.
- (3) DIRECTOR OF MEDICAL SERVICES. When findings warrant, the Director of Medical Services will recommend to the Director of Personnel the disability retirement of an employee or the termination of an individual's employment on grounds of medical disqualification. The Director of Medical Services will also advise the Director of Personnel of medical factors bearing on recommended separations.
- (4) DIRECTOR OF PERSONNEL. Subject to the consideration set forth in subparagraph m, the Director of Personnel will ensure compliance with the procedures established by this paragraph and will take appropriate action or recommend to the Director of Central Intelligence.

1. (Not used)

- m. PROCEDURES. Separations by the Agency will normally be effected in accordance with the procedures suggested below. These should be followed insofar as they are practicable, but it is recognized that

there may be circumstances in any one case that make these procedural steps impractical or undesirable, and in such situations the case will be handled in a manner conforming to those circumstances.

Furthermore, in order to meet the responsibilities placed upon the Agency and pursuant to his statutory authority, any employee may be separated immediately and without regard to any suggested procedural steps when the Director of Central Intelligence deems it necessary or advisable in the interests of the United States.

- (1) A Head of a Career Service or his representative who proposes to recommend the separation of an employee will first review the case with the Director of Personnel or a designated representative.
- (2) Upon the recommendation to the Director of Personnel or the Head of the Career Service that an employee be separated, the Director of Personnel or a designated representative will confirm to the employee that such a recommendation has been made and will give the reasons for the action being considered, as presented by the Career Service. The employee will be offered the opportunity to comment orally within 10 days.
- (3) If the Director of Personnel, after review of the case, decides not to recommend termination of the individual's employment, the Head of the Career Service will be consulted as to the appropriate course of action.
- (4) If the Director of Personnel concludes that termination of the individual's employment is to be recommended, the employee will be advised in writing of that fact and the case forwarded

to the Director of Central Intelligence for decision. The employee will be advised that a written appeal of the termination recommendation may be filed with the Director of Central Intelligence within 10 days.

- (5) Upon receipt of the recommendation of the Director of Personnel to terminate the employment of an employee and to establish the effective date of termination, and after consideration of any written appeal, the Director of Central Intelligence may:
 - (a) Terminate the individual's employment with the Agency, pursuant to section 102(c) of the National Security Act of 1947, as amended, or such other authority as may be appropriate to the particular case, and establish an effective date of termination that shall be not less than 30 days after action by the Director of Central Intelligence; or
 - (b) Disapprove in whole or in part the recommendation of the Director of Personnel.
- (6) The Director of Personnel shall notify the employee in writing of the decision of the Director of Central Intelligence.
- (7) Additional steps are required in the separation of excess personnel.

If the head of a component determines that an individual is excess to the needs of the component, both the Career Service and employee shall be advised of the fact. If the employee requests, the Career Service shall make an effort to place the employee in another component within the Career Service.

Should this not be possible, the Career Service shall declare the employee excess and notify the employee in writing of that fact. The Director of Personnel shall also be advised.

- (8) In cases involving the determination that an employee is excess to the personnel requirements of the Career Service, the Head of the Career Service shall take into consideration the current and anticipated requirements of the Career Services with respect to such factors as grade and qualifications. The comparative performance of employees may also be a factor in selecting employees to be retained or separated from the Career Service.
- (9) On request of the employee, the Director of Personnel shall review the qualifications and background of an employee declared excess to the requirements of a Career Service with a view toward placement elsewhere in the Agency at the same or different grade.
- (10) If this effort is unsuccessful after an interval of time sufficient to explore the possibility of alternative placement, the Director of Personnel shall initiate termination following the prescribed procedure detailed above, including review and possible appeal. After the appropriate review, the Director of Personnel may recommend termination to the Director of Central Intelligence or may request the Head of the Career Service to reconsider the declaration of the employee as excess.

- (11) In the case of abandonment of position, the procedures of subparagraph f are to be followed.
 - (12) In the case of separation during the trial period, the procedures of subparagraph a are to be followed.
 - (13) Pursuant to statutory authority, the Director of Central Intelligence may separate an employee directly when such action is deemed necessary or advisable in the interests of the United States.
- n. RESIGNATION IN LIEU OF TERMINATION. An employee whose separation has been recommended may elect to resign at any time before the effective date of separation. If an employee elects to resign after formal action has been initiated but submits resignation effective at a future date, the Director of Personnel or designee will determine, after consultation with appropriate officials, whether the best interests of the Agency require continuation of procedures to effect involuntary separation at an earlier date.

28. VOLUNTARY SEPARATIONS. The provisions of this paragraph apply to those circumstances and procedures by which an employee voluntarily terminates employment with the Agency. gives the procedures for Exit Processing.

a. RESIGNATION

- (1) An employee who intends to resign from the Agency will, if possible, give at least two weeks' notice in writing.
- (2) The resignation shall be effective at the close of business on the last day the employee is present for duty except in the following circumstances:
 - (a) An employee resigning while on leave of absence ordinarily shall specify the resignation date. However, a request to have a resignation retroactively effective will be subject to review by the Office of Personnel; but in no case may the resignation be effective earlier than the employee specifies. If the employee sets an effective date to include a period for which leave has not been approved, that period may be charged to annual leave or may be considered as absence without leave (AWOL) at the discretion of the Agency.
 - (b) When an employee resigns in circumstances where the granting of accrued annual or sick leave is proper, the resignation date may be extended to grant the unused leave.

(3) An employee whose separation has been proposed may elect to resign at any time before the effective date of termination. However, supervisory officials shall not request an employee's resignation as an alternative to the initiation of a proposal for separation or advise that failure to resign will necessarily result in termination of employment.

b. SEPARATIONS TO ENTER MILITARY SERVICE. An employee entering military service under a program which provides restoration rights to civilian employment shall be separated by administrative action in such a way as to preserve legal entitlements. The Head of the Career Service shall supply the Office of Personnel with the required information about the position being left. The Office of Personnel shall process the administrative action and advise the employee of leave and retirement rights and restoration rights under appropriate Federal statutes and Civil Service Commission regulations.

c. RETIREMENT. The procedures for retirement under the Civil Service Retirement System and the CIA Retirement and Disability System

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d. TRANSFER WITH RE-EMPLOYMENT RIGHTS. By mutual agreement between the hiring and the losing agency, an employee may be separated from Agency employment with grant of a re-employment right. Usually, such right extends for a fixed term and may be exercised by the employee's application for re-employment according to established procedures.

e. SEPARATION TO ACCEPT OTHER EMPLOYMENT WITHOUT A BREAK IN SERVICE.

Resignation is required when an employee is leaving to accept employment without a break in service in another Federal agency.

The separation is made effective on the day before the date of the new appointment.